REMARKS

Applicant appreciates the courtesy shown by the Examiner during a telephone interview with Warren Schickli on Thursday, August 18, 2005. During that interview the Examiner and the Applicant's representative discussed two distinguishing features of the present invention as set forth in now amended claims 1 and 27. While the Examiner did not commit to an allowance during the interview, it is anticipated that this formal Amendment will be positively received and, therefore, the Applicant has taken steps to amend the claims in order to place this application in condition for allowance.

More specifically, independent claim 1 is amended to delete the term "about" and explicitly recite an average fiber diameter of "18-22 microns". Similarly, independent claim 27 is amended to delete the term "about" and now explicitly recite a fiber diameter of between "18-30 microns". In addition to these amendments, independent claims 2, 3 and 29 are canceled without prejudice.

It is believed that independent claims 1 and 27 very clearly patentably distinguish over U.S. Patent 5,851,355 to Goettmann. More specifically, there are two points of distinction. First, the Goettmann patent explicitly teaches a non-woven web incorporating only 1 to 10% by weight of the second thermoplastic binder material (see particularly col. 3, lines 65-67) of the Goettmann patent. In contrast, claims 1 and 27 of the present application explicitly teach an insulating material incorporating from 20 to 60 weight percent low melt bicomponent fiber.

Significantly, the weight percentage range for the second thermoplastic binder material in the Goettmann patent is outside the claimed range deemed necessary by the Applicant to achieve the desired result in the present invention. In fact, the present invention requires anywhere from 2 to 60 times as much low melt bicomponent fiber as taught in the Goettmann patent.

The second distinction is even more telling. More specifically, as set forth in claim 1, the low melt bicomponent, high melt bicomponent and staple fibers all have an average fiber diameter between 18-22 microns. As set forth in independent claim 27 these fibers all have an average fiber diameter of between 18-30 microns. In accordance with the limitations of either claim 1 or 27, the minimum average fiber diameter is 18 microns.

In contrast, the Goettmann '355 patent explicitly provides that the polyester staple fibers utilized have a denier in the range of 0.2 to 3.0. A denier of 3.0 converts to a maximum fiber diameter of 17.6 microns. A 17.6 micron fiber diameter is outside the claimed ranges set forth in present claims 1 and 27. Further, it is not believed there is any proper basis upon which the Examiner can argue that the utilization of fibers having a diameter of 18 microns or greater is an obvious modification of the Goettmann patent. This is because the Goettmann patent explicitly provides at col. 2 line 66 to col. 3 line 10 that "an important feature" of the Goettmann invention is sheet porosity. Specifically, if the sheet porosity is too low, the fibers will not attach to the support substrate. Conversely if the sheet porosity is too high, the fibers penetrate the support

substrate too much and do not form a film as desired on the surface. Goettmann then explicitly teaches that the denier of the fibers must be in the range of 0.2 to 3.0 to obtain the desired sheet porosity. Thus, the Goettmann patent explicitly teaches away from using fibers with a diameter of 18-22 microns as set forth in independent claim 1 and 18-30 microns as set forth in independent claim 27.

It, of course, is well established that "the mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification". In re Gordon, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984) and In re Laskowski, 871 F.2d 115, 117, 10 USPQ2d 1397, 1398 (Fed. Cir. 1989). In this case not only is there no motivation in Goettmann to modify the diameter of the fiber to meet the limitations of claims 1 and 27, the Goettmann patent actually teaches away from making such a modification. It is well established in the case law that it is error to find obviousness where references "diverge from and teach away from the invention at hand". See W. L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1550, 220 USPQ 303, 311 (Fed. Cir. 1983) and In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1599 (Fed. Cir. 1988).

After considering the two distinctions noted above in light of the cited case law it is believed the Examiner will agree that the invention as set forth in independent claims 1 and 27 patentably distinguishes over the Goettmann patent and the other references of record. Further, claims 5-7 and 9-26 which depend from claim 1 and claim 28 which depends from claim 27 patentably distinguish

for the same reasons. Accordingly, all the claims remaining in the application are in condition for allowance. Consequently, the early issuance of a formal Notice of Allowance is earnestly solicited. Of course, should the Examiner note any remaining issues she is respectfully requested to contact the Applicant's attorney of record in order to expedite the prosecution of this patent application. Any fees required in connection with this Response may be debited to Deposit Account 50-0568.

Respectfully submitted,

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